

VERMONT SUPERIOR COURT  
Washington Unit  
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CIVIL DIVISION  
Case No. 22-ST-01307

Tyler Weedon v. Susannah Davis

## DISMISSAL

On December 2, 2022, Plaintiff Tyler Weedon filed a Complaint claiming that the Defendant Susannah Davis is stalking him and requesting an emergency no-stalking order. The Court denied his request for an emergency no-stalking order for two reasons: (1) the allegations of his Complaint fail to support a finding that Ms. Davis stalked him; and (2) the affidavit that Mr. Weedon filed with his Complaint does not support the need for an emergency order.

Mr. Weedon then filed an "Intent to Pursue" stating that he intends to pursue his request for a no-stalking order against Ms. Davis, in spite of the fact that his request for an emergency order was denied, and requesting that a hearing be set on his request. In the meantime, Ms. Davis has filed a motion with the Court objecting to any hearing being held in this case on the grounds that Mr. Weedon's Complaint is "retaliatory" and he "has no grounds for this stalking motion." Therefore, the Court must decide whether to grant Mr. Weedon's request for a hearing or dismiss his Complaint on the grounds that it fails to support a finding that Ms. Davis has stalked him.

The affidavit that Mr. Weedon filed with his Complaint states as follows:

Since 10/2/22, when my wife Rachel Kemple intentionally crashed my aunt's Honda Accord in a failed suicide attempt after stealing the vehicle, Susannah Kelly Davis, Rachel's mother, has intentionally deprived me, Rachel's legal husband, access to my wife while Rachel was in the hospital and while recovering at Susanna's residence on Bailey St. in Barre Vt due to the fact she perceives me as a "threat" to Rachel's wellbeing. Ms. Davis has gone so far as to fill out an affidavit for a family court order and have Rachel sign it without reading the written text. Ms. Davis has been an "architect" of removing me from my legal residence without due cause or reason on two occasions. She is a danger to my wellbeing & welfare.

That is the sum total of Mr. Weedon's affidavit.

As a matter of law, Mr. Weedon's affidavit fails to support a finding that Ms. Davis stalked him. The term "stalk" means "to engage purposefully in a course of conduct directed at a specific person that the person engaging in the conduct knows or should know would cause a reasonable person to ... fear for his or her safety or the safety of a family member ... or ... suffer substantial emotional distress...." 12 V.S.A. §5131(6). The term "course of conduct" means "two or more acts over a period of time, however short, in which a person follows, monitors, surveils, threatens, or makes threats about another person, or interferes with another person's property." *Id.*, §5131(1)(A). Lastly, "[c]onstitutionally protected activity is not included within the meaning of 'course of conduct.'" *Id.*

Mr. Weedon does not claim that Ms. Davis has followed, monitored, or surveilled him, or that she has threatened him, or that she has interfered with his property. In addition, he does not claim that she has done anything that would cause him to fear for his safety or the safety of a family member. Weedon's claim, that Davis "deprived" him of "access to [his] wife Rachel" because "she perceives [him] as a 'threat' to Rachel's wellbeing," would not constitute stalking even if the Court held a hearing and found it to be true. Similarly, Weedon's claim that Davis filled out an "affidavit for a family court order," which Rachel signed "without reading the written text," also would not constitute stalking even if found to be true. Moreover, a parent's act of helping her daughter fill out an affidavit in order to obtain a family court order of protection would constitute Constitutionally protected activity.

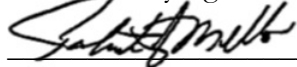
Mr. Weedon asks this Court for an order preventing Ms. Davis from interfering with his ability to have access to his wife Rachel Kemple. However, Mr. Weedon does not have a right of access to his wife. The Family Division has issued a temporary relief from abuse order ordering Mr. Weedon to have no contact with Ms. Kemple and to remain 300 feet away from her, her residence (she resides with her mother, Ms. Davis) and her motor vehicle (see the Temporary Order – Relief from Abuse dated November 30, 2022, in Docket No. 22-FA-3438). Thus, not only does his Complaint fail to support a finding that Ms. Davis stalked him, the relief he seeks (access to his wife) is not something this Court can grant him.

The statutes governing stalking complaints do not require the Court to hold a hearing in every case, just because the plaintiff insists on having one. The statutes only say that the Court cannot grant relief (other than in an emergency) without first holding a hearing. 12 V.S.A. §5133(b) ("Except as provided in section 5134 [regarding emergency relief] of this title, the court shall grant the order only after notice to the defendant and a hearing."). Moreover, the Rules of Civil Procedure apply to stalking complaints. Id. § 5136(a). Under those Rules, no evidentiary hearing is necessary when there is no material fact to be found. V.R.C.P. 78(b)(2). That Rule further provides that "[t]he request for an opportunity to present evidence shall include a statement of the evidence which the party wishes to offer."

Lastly, the fact that Mr. Weedon filed his stalking complaint against Ms. Davis immediately after his wife obtain an RFA order against him, raises a serious concern that he may have filed his Complaint in order to retaliate against Ms. Davis for helping her daughter to get the order. Under such circumstances, the Court must be especially careful to assure that its hearing processes are not allowed to be used to pursue claims that lack factual or legal support.

If Mr. Weedon believes that he has evidence supporting a finding that Ms. Davis has stalked him, then he has ten (10) days to file a supplemental affidavit with the Court setting forth those facts. If he fails to do so, then his Complaint will be dismissed. Meanwhile, the hearing that the Clerk scheduled for December 13, 2022, is cancelled.

Electronically signed on 12/7/2022 2:12 PM, pursuant to V.R.E.F. 9(d)



Robert A. Mello  
Superior Judge